

§ 63-33. Procedure.

(a) Adoption of Zoning Regulations. – No airport zoning regulations shall be adopted, amended, or changed under this Article except by action of the legislative body of the political subdivision in question, or the joint board provided for in G.S. 63-31, subsection (c), after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 10 days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which the airport is located.

(b) Administration of Zoning Regulations – Administrative Agency. – The legislative body of any political subdivision adopting airport zoning regulations under this Article may delegate the duty of administering and enforcing such regulations to any administrative agency under its jurisdiction, or may create a new administrative agency to perform such duty, but such administrative agency shall not be or include any member of the board of appeals. The duties of such administrative agency shall include that of hearing and deciding all permits under G.S. 63-32, subsection (a), but such agency shall not have or exercise any of the powers delegated to the board of appeals.

(c) Administration of Airport Zoning Regulations – Board of Appeals. – Airport zoning regulations adopted under this Article shall provide for a board of appeals to have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of this Article or of any ordinance adopted pursuant thereto;
- (2) To hear and decide special exceptions to the terms of the ordinance upon which such board may be required to pass under such ordinance;
- (3) To hear and decide specific variances under G.S. 63-32, subsection (b).

Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of appeals. Otherwise, the board of appeals shall consist of five members, each to be appointed for a term of three years and to be removable for cause by the appointing authority upon written charges and after public hearing.

The board shall adopt rules in accordance with the provisions of any ordinance adopted under this Article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

Appeals to the board may be taken by any person aggrieved, or by any officer, department, board, or bureau of the political subdivision affected, by any decision of the administrative agency. An appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise

than by a restraining order which may be granted by the board or by a court of record on application on notice to the agency from which the appeal is taken and on due cause shown.

The board shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The board may, in conformity with the provisions of this Article, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

The concurring vote of a majority of the members of the board shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. (1941, c. 250, s. 5; 1981, c. 891, s. 11.)